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14 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
15 **SAN JOSE DIVISION**

16 ANGEL FRALEY; PAUL WANG; SUSAN) Case No. CV 11-01726 LHK (PSG)
17 MAINZER; JAMES H DUVAL, a minor, by and)
through JAMES DUVAL, as Guardian ad Litem;) **DECLARATION OF ROBERT S.**
18 and WILLIAM TAIT, a minor, by and through) **ARNS IN SUPPORT OF PLAINTIFFS'**
RUSSELL TAIT, as Guardian ad Litem;) **UNOPPOSED MOTION FOR**
19 individually and on behalf of all others similarly) **ADMINISTRATIVE RELIEF**
situated;) **EXTENDING TIME**

20 Plaintiff,

21 vs.
22

23 FACEBOOK, INC., a corporation and DOES 1 to) Trial Date: None Set
100, inclusive)

24 Defendants.
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1 I, Robert S. Arns, hereby state and declare:

- 2
3 1. I am an attorney licensed to practice before all the courts of the State of California
4 and I am admitted to practice before this Court. I am an attorney for Plaintiffs Angel
5 Fraley; Paul Wang; Susan Mainzer; James H Duval, a minor, by and through James
6 Duval, as Guardian ad Litem; and William Tait, a minor, by and through Russell
7 Tait, as Guardian ad Litem; individually and on behalf of all others similarly situated
8 ("Plaintiffs") in this putative class case. I have personal knowledge of the facts
9 stated in this declaration, and if called upon to testify, could and would competently
10 testify thereto. I make this Declaration in support of the Stipulation Requesting
11 Shortening of Time to Hear Plaintiffs' Motion to Extend Time to File and Serve
12 Opposition to Defendant Facebook, Inc.'s Motion to Dismiss.
- 13 2. Plaintiffs filed the above-entitled action on March 11, 2011 in the Superior Court of
14 California, County of Santa Clara, and filed their First Amended Complaint on
15 March 18, 2011. Facebook removed the above-entitled action to the United States
16 District Court for the Northern District of California on April 8, 2011.
- 17 3. On June 2, 2011, a change to Civil Local Rule 7-3 became effective, changing the
18 deadline for an opposition to a motion to be filed and served from 21 days before the
19 hearing date, so that an opposition is instead now due 14 days after the filing of the
20 motion.
- 21 4. On July 1, 2011, Defendant Facebook, Inc. filed a Motion to Dismiss.
- 22 5. Plaintiffs' counsel were unaware of this recent rule change at the time Defendant
23 filed its Motion to Dismiss on July 1, 2011, and relied upon the prior rule. The
24 Administrative Assistant who downloaded the Motion failed to note the due date for
25 the opposition on the court's docket.
- 26 6. Plaintiffs' counsel thus mistakenly believed Opposition was due September 15, 2011

1 when, under the newly enacted rule, the last day to file and serve an Opposition was
2 actually July 15, 2011.

3 7. For each Federal Court case The Arns Law Firm handles, it prepares a binder with
4 Local Civil Rules for the District involved, and any Standing Orders for the District
5 and the particular Judge Assigned, the ADR Local Rules, Pretrial Instructions and
6 any other rules beyond the Federal Rules. Unfortunately, the September 2010 Local
7 Civil Rules were not updated to the June 2011 Local Civil Rules.

8 8. Plaintiffs' counsel intended to file an Opposition to Defendant Facebook, Inc.'s
9 Motion to Dismiss.

10 9. I became aware of the change to Civil Local Rule 7-3 on July 18, 2011, and
11 immediately contacted counsel for Defendant Facebook, Inc. to request a stipulation
12 for an extension of time to file an opposition to the Motion to Dismiss.

13 10. Defendant Facebook's counsel informed Plaintiffs' counsel that they would not ask
14 the Court to either grant or deny this Motion, but would rather defer to the Court's
15 judgment on the matter.

16 11. The following time modifications have previously taken place in this action

17 a. Defendant Facebook, Inc.'s deadline to respond to Plaintiffs First
18 Amended Complaint was extended by stipulation of the parties from
19 April 15, 2011 to May 18, 2011.

20 b. Defendant Facebook, Inc.'s deadline to respond to Plaintiffs Second
21 Amended Complaint was extended by stipulation of the parties from
22 June 20, 2011 to June 27, 2011.

23 c. The Court moved the hearing on Defendant's Motion for Protective
24 Order to be held concurrently with the Case Management Conference
25 on July 28, 2011.

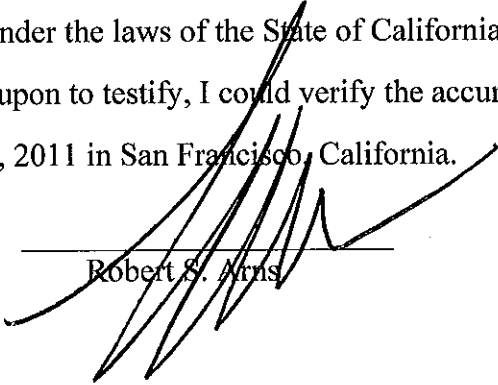
26 12. Plaintiffs are requesting that they be given until July 29, 2011 to file their
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1 opposition. The issues involved include complex and unsettled areas of the law,
2 including interpretation of the Communications Decency Act, 47 U.S.C.S. § 230,
3 and the Unfair Competition Law, Ca. Bus. & Prof. Code § 17200, et seq.

4 13. Plaintiffs and the putative class would be severely prejudiced by an inability to file
5 an opposition. There is no prejudice to Defendant Facebook, Inc.

6 14. I do not believe granting this request for Order Shortening Time will affect the case
7 schedule as the date of the hearing, October 6, 2011, will not change.

8 I declare under the penalty of perjury and under the laws of the State of California that
9 the foregoing is true and correct, and that if called upon to testify, I could verify the accuracy of
10 the same. This document was executed on July 19, 2011 in San Francisco, California.

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13 Robert S. Arns
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